

## CHARGE TO STORAGE PROBERS

ANY COMBINATION TO RAISE PRICES IS CONSPIRACY.

Justice Swayze Goes Back to the Days of Pharaoh—Makes No Distinction of Cold Storage and Warm—Act Must Have Been Done in the County.

Supreme Court Justice Francis J. Swayze delivered a special charge to the Hudson county, N. J., Grand Jury at the Court House in Jersey City yesterday afternoon on the subject of the cold storage investigation now in progress. He said that the storage of foodstuffs and other commodities with public warehouses and pointed out that the first notable illustration of the wisdom of food accumulation dates back to the days of Pharaoh, when as a result of Joseph's interpretation of Pharaoh's dream grain was stored up in the seven plentiful years for use when the seven lean years came.

The Justice told the jurors that if the evidence taken before them renders it probable that a combination of individuals or concerns exists an indictment for conspiracy would be justified providing that the combination has for its object "merely to enhance the price of foodstuffs and has no lawful aim" and that "the acts done in furtherance of the combination directly, and not merely incidentally, enhance the price."

The concentration of a vast population around such a point as New York city and the great distance of that population from the original sources of food supply render it a necessity that quantities of food large in amount but small in proportion to the population to be fed should be accumulated and held for longer or shorter periods in order to meet the demand. Such an accumulation, made in times of plenty to meet the public need in times of scarcity, does not of itself indicate that the object of the accumulation was the public injury; it may even be for the public weal, for although it may tend to raise prices in the time of plenty, it will tend to keep them down at seasons when the natural supplies are scarce.

One of our earliest records deals with this subject. The Book of Genesis gives an account of the interpretation by Joseph of Pharaoh's dream of the lean and the fat time, and the advice which followed. I quote from the American Revised Version:

"And, therefore, let Pharaoh look out a man discreet and wise and set him over the land of Egypt. Let Pharaoh do this, and let him appoint overseers over the land and take up the fifth part of the land of Egypt in the seven plentiful years. And they shall gather up the corn of the seven years, and lay it up for store in the cities, and shall sell it to the Egyptians, for they shall be in want, for the seven years of famine shall come. And the land of Egypt shall be Pharaoh's, and the land shall be sown to Pharaoh, and the fifth part shall be his, and the fourth part shall be for the overseers, and the sixth part shall be for the land, that the land perish not through the famine."

The result of this forethought was, as you will remember, that when the seven lean years came, "There was famine in the land; but in Egypt there was bread." I refer to this only by way of illustration, but it suffices to show that the storage of food may have an object consistent with the public welfare.

When the evidence in this case shows that the object in the present case you should have no indictment. If, however, the evidence renders it probable that the object of accumulating foodstuffs and holding in cold storage is merely to enhance the price to the public injury, an indictment would be proper. I say if the object was merely to enhance the price, for it is clear that the carrying out of a lawful purpose may have a tendency to enhance the price. But if the object is to enhance the price, a remedy in such a case, there is no remedy by indictment if the aim was lawful and the enhancement of price was incidental only to the execution of that lawful purpose.

In order that an indictment may be justified the evidence should render it probable (1) that there is a combination, for it is not enough that a single individual or a single corporation, however large, should have stored up foodstuffs; (2) that the combination have for its object merely to enhance the price of foodstuffs and have no lawful aim; (3) that the acts done in furtherance of the combination directly, and not merely incidentally, enhance the price.

The question remains whether an indictment can be found in the county of Hudson. That can only be the case if the crime, if crime there be, was committed in the county. The crime of conspiracy is the combination; it is the illegal agreement that constitutes the crime, but it has been decided that an indictment may be had in this State and when the conspiracy is in another State, it is proved that the act was done here by some of the conspirators in furtherance of their common design.

I think any overt act in this State is enough. If, then, you think the case a proper one for an indictment, I say an act would be the storage of foodstuffs or the withholding of them from sale for the purpose of enhancing the price.

After listening to the charge the Grand Jury resumed their investigations. The witnesses included Ernest A. Hegeler, a former cold storage man, and William Corbett, Harrison, Dr. John J. Baumann, Fen Produce Company, Fourth and Henderson streets, Jersey City; John Wester, Fen Produce Company, Fourth and Henderson streets, Jersey City; Robert A. Adams, Union Terminal Cold Storage Company, Jersey City; William Corbett, Harrison, Dr. John J. Baumann, Fen Produce Company, Fourth and Henderson streets, Jersey City; P. D. Wilson, Nelson Morris & Co., Bayonne; and M. Klebbat of Schwarzhild & Sulzberger, Jersey City.

## BEEF INDICTMENT RUMORS.

Despite Denials Reports of Early Action Against Trust Continue.

CHICAGO, Feb. 9.—Rumors that Judge Landis's Federal Grand Jury, which is investigating the alleged beef trust, was about to vote indictments against Chicago packers who are believed to be interested in a monopoly of the fresh meat industry were prevalent about the Federal Building to-day despite statements of Government officials that no such action was about to be taken.

The rumor had it that four indictments would first be noted against certain officials of the various packing companies supposed to be interested in the alleged trust. This action is said to have been decided upon after the conclusion of testimony of New York witnesses yesterday afternoon.

Oliver E. Pagan, the Government indictment expert whom Wade H. Ellis brought to Chicago and left here to aid District Attorney Smith in his several long conferences with Mr. Sims yesterday and to-day was busy with his private stenographer, which lends color to the rumor.

Arthur Colby and William E. Weber, assistant treasurer and general auditor, respectively, of the National Packing Company, the trust, were before the Grand Jury for less than half an hour. When they came out they were accompanied by the District Attorney's reporter, Mr. Sims and his assistant, James J. Wilson. It was explained that a little recess was

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being taken because there were no witnesses ready, but instead of moving about as is customary the grand jurors remained behind locked doors and their voices were heard in earnest discussion. Then all was quiet for a few minutes and District Attorney Sims was sent for.

Arthur F. Rogers, chief accountant in the sales department of Swift & Co., was taken into the Grand Jury room by Mr. Sims and the conference ended. Rollin A. Stearns, a sales accountant under Rogers, was also called this morning as a witness.

## TO PROBE HIGH PRICES.

Senate Passes the Elkins Resolution With Some Amendments.

WASHINGTON, Feb. 9.—The Senate today passed the Elkins resolution authorizing an investigation by a special committee of seven Senators into the causes for the advance in prices. A few amendments were made to the resolution increasing the list of commodities to be covered by the committee in its investigation.

Vice-President Sherman was not prepared to-day to announce the names of the special committee, but will probably make them public when the Senate meets to-morrow. Senator Lodge will undoubtedly be the chairman and Senator Elkins and Senator McCumber will doubtless be members.

The leaders will recommend that the committee be composed of four Republicans and three Democrats. The Democratic leaders were talking among themselves to-day of what Democratic Senators should go on the committee. It is understood that Vice-President Sherman will consult them freely as to the minority representation.

Senator Stone of Missouri, who objected to the consideration of the resolution yesterday, voiced his objections in a speech in the Senate to-day. He declared that there has been a lot of money business in the consideration. He said that the members of the Finance Committee acted as if they had started out with a purpose to conceal rather than to disclose.

The Senator from Missouri predicted that the investigation would turn out to be a whitewash of the Aldrich-Payne tariff law. The fact that Senator Lodge is to be chairman of the committee convinced Senator Stone that no responsibility would be placed upon the tariff law for bringing about the increased cost of living.

## Eggs Cheaper in Chicago.

CHICAGO, Feb. 9.—Eggs declined again to-day. Select eggs were 27 cents, against 40 cents a few days ago.

Whether agitation against high prices caused the decline, or whether the weather for the hen was responsible for increased receipts was not explained by dealers.

## BOYS DID IT BURGLES.

Two Churches on Their List—Reckless With Lead Quarters—They Confess.

James Durkin, 14 years old, and George Corbett, 13, both of 881 Wales avenue, have confessed, the police say, to seventeen burglaries that have been worrying the Bronx detectives since Christmas. They were arrested yesterday afternoon and will be in the Children's Court to-day.

Less than three weeks ago, they were in the same court in connection with another burglary and were released on parole.

The job for which they were arrested was the theft of several dollars and three lead quarters from John Dore's butcher shop, 100 West 125th street, on Saturday night. They got in by the transom. On Sunday night they went to Tammany Hall and passed two of the lead quarters for admission to an Italian dance. Later they bought three beers each. They rode on the subway all night and got out at Third avenue and 146th street, where they broke into an Italian dance to a blind beggar. He bit the counterfeiter and threw it away.

On Sunday they went into four more places, including the real estate office of Smith & Phelps at 435 East 149th street, where they found no money but did several hundred dollars worth of damage to furniture and pictures. Afraid to go home, they broke into an unoccupied store and slept there. The next morning they tried to steal lead pipe in the store but couldn't cut it.

The boys told the police that two churches were among the places robbed.

One of them was St. Anselm's, at 154th street and Clinton avenue, where they stole the Christmas money from the poor box. The other was an Episcopal church at 154th street and Leggett avenue, where they got drunk on the communion wine.

Corbett, arrested at his home, told the detectives where they could find the other boy. Durkin was caught behind a fence near St. Anselm's School smoking a big cigar. He ran into the school when he saw the detectives. He was reported to be comfortable.

## Brooklyn Y. M. C. A.'s New General Secretary.

John W. Cook, who has been State secretary of the Young Men's Christian Association for the last eight years, has accepted a call to become general secretary of the Brooklyn association. The place has been vacant since the death of the Rev. Edwin F. See, about four years ago. Mr. Cook has been engaged in association work for more than twenty years.

## Second Operation on Gen. Wood.

BALTIMORE, Feb. 9.—A second operation was performed on Gen. Leonard Wood at the Johns Hopkins Hospital this afternoon. To-night he was reported to be comfortable.

## SEE WASHINGTON

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## STORED FOOD TAGGED FOR AGE

DOWLING GIVES A HEARING, BUT SAYS IT'S NO USE.

His Ordinance is Going Through the Board of Aldermen Anyhow—And Oh for the Fish of a Pedler Gone and the Sound of a Horn That is Still.

Alderman Frank Dowling's proposed ordinance requiring that all cold storage meat and fish and other foods for human use shall be labeled that everybody may know just how long an article has been kept was hotly argued yesterday afternoon, at a hearing given by the Aldermanic Committee on Laws and Legislation. The Aldermen's chamber was crammed with butchers and fishmongers who did not like Dowling's idea.

From time to time dealers got up and insisted that an ordinance of so drastic a character would ruin merchants and greatly increase the price of meats and fish. The representative of a large association of wholesale fish dealers said that if the law went through his clients would have to take their business out of New York and move to a State where fair treatment could be got.

Edward F. O'Neill, president of the United Butchers Association, said that the cold storage of meat was absolutely necessary for from six to nine months a year. Storing had become a science, and the public had complete protection. In the first place, he said, the cold storage houses have developed the business to such a point that very little stored food spoils, and in the second place the United States Government, as well as the State and the city, is strict in its inspection of foods.

One man in the room wanted to know if poultry and beef weren't frequently kept so long that they had mould on them when taken out. Mr. O'Neill said very emphatically that this was not true.

Frank Harvey Field spoke for the fish dealers. He said that the price of fish is less now than it has been for twenty years and that the public can thank cold storage for reasonable prices and ample supplies. If it were not for cold storage, Mr. Field said, it would be impossible for New Yorkers to get fish for six months of the year. He was certain that the public is amply protected under the existing laws.

Alderman Dowling took exception to Field's statement that the price of fish has gone down.

"Why, I can remember," he said, "when fish was so cheap that we used to throw them to the cats!"

"True enough," said Mr. Field, "but there wasn't any adequate system of cold storage in those days, and fish was thrown away because it couldn't be kept."

"Why don't we see fish peddlers on the streets any more?" inquired Alderman Dowling.

"Because the city has made them all go down under the Williamsburg Bridge," said Mr. Field.

"They have been driven out of business by the big grasping wholesalers. They haven't been able to pay the prices that the big dealers demand for their goods," said Mr. Loeblinger, representing the Women's National Progressive Suffrage League, who walked up the aisle and got the eye of Alderman Levine, who was presiding.

Mr. Levine gave her the floor, and Mrs. Loeblinger talked swiftly for a number of minutes.

She said that a great number of women who were interested in wholesome foods were anxious to attend the hearing, but had not received any reply to their request to be permitted to come and speak.

Mr. Levine said he was sorry that the reply had been refused. Mrs. Loeblinger said she would forgive the Aldermen, and everybody smiled happily.

"We women who are in the marketing are strongly in favor of Alderman Dowling's ordinance," she said. "Much that has been said here is irrelevant. The proposed ordinance will not interfere with cold storage in any way. It is not designed to hurt anybody's business. It merely says that people shall be informed just how long articles have been kept."

"We are for the fish man, said that nothing could be more harmful than a requirement that tags must be used on foods."

"If it would scare the public to death," he said, "it would make people suspicious. It would work out just like a quarantine. You know how a man will get a horse with a yellow or a red flag tacked on it."

Alderman Dowling said that he wanted everybody interested to have a say, but he served notice that he was going to drop the ordinance through the board.

"I'm going to use all the power and influence and ability I have got in obtaining this protection for the public," said the Alderman.

The next hearing will be at 1 o'clock next Wednesday afternoon.

## POSED AS POLICE BOSS.

Lawyer Who Dreamed He Was Commissioner Reynolds Is Jailed for It.

John H. Kemple, who says he is a lawyer of Roselle Park, N. J., was arrested in the Mulberry street station last night and locked up on the charge of personating Deputy Police Commissioner Reynolds of Brooklyn.

Lieut. Charles Becker was at the desk in the station house about midnight when Kemple entered and inquired the shortest way to Broadway. After getting the information the man said:

"By the way, you don't know who you're talking to, do you?"

"No," answered Becker. "And really, I don't care very much."

"Well," Lieut. Becker says the man replied, "I'm Commissioner Reynolds of Brooklyn."

Becker insisted on seeing the Commissioner's credentials, but the man couldn't produce them he was arrested. At first he said he was John Kelly of 290 Twelfth street, Brooklyn, but when a comparison of his name was made with the name of Kemple was found on him he admitted his identity.

## Baby Madeline Burned to Death.

COLUMBUS, Ohio, Feb. 9.—Bessie Longnecker, aged 7, a child known in the show world as "Baby Madeline," was burned to death last evening at her home here. The girl weighed 250 pounds and was said to be the largest child of her age that ever lived. Her mother, Mrs. James Longnecker, was badly burned in trying to save her.

## Savage Convicted of Murder.

Edward Savage, a negro, was convicted yesterday afternoon in the Court of Oyer and Terminer, Jersey City, of murder in the first degree for killing Mrs. Ada Snell, his sweetheart, with a knife at her home, 57 Montgomery street, that city, on October 19, 1909. The jury was out fifteen minutes. The trial lasted three days. The defence was insanity.

## Suits Against Father-in-Law Are Off.

Supreme Court Justice Platatz refused yesterday to set aside the discontinuance of two suits for \$50,000 brought by William August Becker, for alienating the affections of Becker's wife, against her parents, Mr. and Mrs. William L. Bedford.

## AN INSURGENT FOR CONGRESS.

Secretary Hayward of the National Committee Is Against Cannon.

LINCOLN, Neb., Feb. 9.—William Hayward, secretary of the Republican national committee and chairman of the Nebraska committee, will announce to-morrow his candidacy for Congress on an insurgent platform from the First Nebraska district, now represented by John A. Maguire, a Democrat.

Mr. Hayward says he will oppose the reelection of Speaker Cannon and will favor amendment of the House rules "to the end that the power to legislate may be taken from the few and restored to the many."

He says that if the tariff bill does not prove a complete redemption of the party pledge it must be amended. He stands on the national platform save that he will oppose ship subsidy. He will be opposed in the primary by former Congressman Pollard and possibly two others.

## TROLLEY SMASH KILLS GIRL.

Car Coasts Down Slippery Track and Jumps Curve at Foot of Grade.

PITTSFIELD, Mass., Feb. 9.—Rails made slippery by frost were responsible for the death of one person and injuries to twenty others in a trolley car accident at Hinsdale early to-day.

Miss Bessie Ryan of Hinsdale was killed.

There were 105 passengers on the car, which left Hinsdale for Dalton on this city at 5:15. About a mile west of Hinsdale there is a heavy grade, and at the foot of the hill the road takes a sharp turn.

The rails were slippery with frost, and when the car struck the heavy grade the brakes failed to hold. The car coasted down the grade, and when it reached the curve jumped the track and smashed into the abutment of a railroad bridge over the road.

## THREE BURNED TO DEATH.

Tenants of Upper Floors of Bank Building Penned in by Fire.

WILLIAMSPORT, Pa., Feb. 9.—Three lives were lost and three buildings in the business part of Jersey Shore, fourteen miles from here, were destroyed by fire early this morning. The loss to property amounts to \$50,000, partly covered by insurance.

The dead are: A. L. Dravenstadt, Williamstown; Mrs. A. L. Dravenstadt, and the infant son of Mr. and Mrs. Richard O'Connor of Jersey Shore.

Mrs. John Sterner, who suffered a fractured skull, is not expected to live.

## LACK THIRD ARBITRATOR.

Two Chosen to Settle Railroad Labor Dispute Unable to Agree.

WASHINGTON, Feb. 9.—A deadlock has resulted between the two arbitrators recently selected by the committee of managers representing eight railroads and the Brotherhood of Railroad Trainmen.

The two arbitrators chosen are G. R. Grandy, president of the St. Louis and San Francisco Railway Company, and S. E. Heberling, vice-president of the Switchmen's Union. To-day they notified the union that they were unable to agree on a third arbitrator and delegated that task to Chairman Knapp and Commissioner Neill.

The controversy is important in that the agreement arrived at probably will have a bearing on the settlement of the controversy over the tariff on foreign goods, which is being handled by the same arbitrators.

The switchmen demand an increase in wages and a shorter working day. The railroad men refuse to agree to these demands. The controversy is important in that the agreement arrived at probably will have a bearing on the settlement of the controversy over the tariff on foreign goods, which is being handled by the same arbitrators.

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## GHETTO'S PRODIGY A THIEF

BOY OF SEVEN TONGUES SHORT CHANGED A WOMAN.

All Bills Just Green to Him, He Tells the Court That Convinces Him—He Is Ghock Schwagel, 18, From Jerusalem, With Riches of Asia in His Brain.

They were chattering over on the East Side last night about the downfall of Ghock Schwagel, the eighteen-year-old boy, at whose feet have sat the pious and the learned since he came to 42 Essex street from Jerusalem three months ago.

Ghock had no liking for the Sultan's army and he got out of Palestine just in time to avoid conscription. When he set foot in America it was as if a cultured young Hebrew of several centuries ago had stepped forward in time as well as in space.

He came into Essex street with a knowledge of Hebrew and rabbinical writings that established him at once as a modern Gannaiel in the Jewish quarter. He had Sanskrit and Persian, Latin and Greek—Arabic too, for he had spent much of his life in his native Arabia. Within a week the exile had mastered enough English to qualify him for peddling lace work for an East Side concern.

With all his knowledge of Arabic, it was Ghock's failure to discriminate between Arabic numerals that brought him into Special Sessions yesterday when he was tried for petty larceny. Mrs. Amelia Hackart of 501 East Seventy-third street swore that Ghock sold her a garment for \$1 on February 1. She said she gave him a \$10 bill by mistake thinking it \$4. A few minutes later she discovered the error and called for the change. Mrs. Hackart followed him until they came to a policeman. At the East Eighty-eighth street station Ghock was searched and he recalled to the House, was also taken to the police station.

The Yiddish court interpreter could not get on with Ghock in ancient Hebrew yesterday, and Justice Zeller, thinking that he was unfortunate, had left his Persian lexicon at home. Ghock had to make demand of his English. He said he did not know the lady had given him a \$10 bill. He said he was a Jew and that he was a thief.

The Rev. Dr. M. P. Mendes of 90 Central Park west wrote a letter to the Justice, asking for clemency. The Rev. Jacob Goldstein, a Talmudic scholar, also was interested in Schwagel. The court convicted, however, Justice Zeller saying: "I take no stock in the requests for mercy for this man. I believe he is a shrewd, educated scoundrel."

Ghock was remanded for sentence.

## TO MAKE PEARY REAR ADMIRAL

Senate Promptly Passes the Bill to Retire Him With That Rank.

WASHINGTON, Feb. 9.—The Senate to-day by unanimous vote and without debate passed the bill introduced by Senator Hale to promote Robert E. Peary the explorer, to the grade of Rear Admiral of the navy and place him on the retired list. The advancement will place Commander Peary in the list of senior admirals and he will receive \$6,000 a year in pay. The Senate acted very promptly.

The bill introduced by Representative Allen in the House to make Peary a Rear Admiral had been referred to the Navy Department in the usual course of legislation for an opinion. The Senate Committee on Naval Affairs did not wait for any informal communication from Secretary Meyer, but promptly reported and passed the bill. The favorable report was made to-day shortly after the session began.

The bill as it passed the Senate will go to the House to-morrow, and it is expected that the Representative Allen will introduce the bill for his own measure and the House will promptly pass it. President Taft stands ready to approve the bill.

It was stated at the Navy Department to-day that Secretary Meyer approved the measure. His approval of it had been unofficially made known to the House by the Secretary of the Navy. He brought the matter to the attention of the other Cabinet members at the last meeting and it was generally approved.

## OUT OF ORDER, SAYS UNCLE JOE.

He So Rules Against William Sulzer and George Washington.

WASHINGTON, Feb. 9.—"Is George Washington the Father of his Country, out of order here?" indignantly demanded Representative William Sulzer of New York in the House of Representatives to-day.

Speaker Cannon banged his desk with the ivory gavel about six times. "In the present company he most decidedly is," he replied with emphasis. Whereupon the House roared and Mr. Sulzer took his seat with a grin.